

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 276 – HB 1109

March 18, 2014

SUMMARY OF ORIGINAL BILL: Authorizes a person who has been deprived of the rights of citizenship, due to a felony conviction and is seeking to have his or her rights of citizenship restored, to petition the court for a certificate of employment restoration. Authorizes the court, at its discretion, to issue a certificate of employment restoration if the person has met established criteria. Upon the granting of the petition, the petitioner will be given a certificate of employment restoration. If the court denies the petition, the person may file another petition after one year of the date of the denial.

Prohibits any board, agency, commission, or other licensing entity that issues licenses or certificates and regulates occupations and trades to adopt, maintain, renew, or enforce any rule that precludes a person from receiving or renewing an application for a license or certificate based solely on the person's past record of criminal activity or interpretation of moral character if the person presents a valid certificate of employment restoration.

Authorizes the introduction of a certificate of employment restoration as evidence in a judicial or administrative proceeding alleging negligence in certain circumstances and establishes immunity for an employer who has a claim against him or her for negligent hiring if the employer knew of the certificate at the time of the alleged negligence. Requires the Administrative Office of the Courts (AOC) to create a standard petition for employment restoration form and maintain the form on the AOC's website.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (014140, 013701): Amendment 013701 deletes all language after the enacting clause.

Authorizes a person who has been deprived of the rights of citizenship, due to a felony conviction and is seeking to have his or her rights of citizenship restored, to petition the court for a certificate of employment restoration. Authorizes the court, at its discretion, to issue a certificate of employment restoration if the person has met established criteria.

Before hearing the petition, the district attorney general in whose county the petitioner resides and the district attorney general of the county in which the petitioner was convicted must be given 20 days' notice so that either may resist. If the petitioner was convicted in a federal court, then the district attorney general in whose county the petitioner resides and the United States

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attorney in whose district the petitioner currently resides shall be given notice so that either may resist.

Upon the granting of the petition, the petitioner will be given a certificate of employment restoration. If the court denies the petition, the person may file another petition after one year of the date of the denial.

Prohibits any board, agency, commission, or other licensing entity that issues licenses or certificates and regulates occupations and trades to adopt, maintain, renew, or enforce any rule that precludes a person from receiving or renewing an application for a license or certificate based solely on the person's past record of criminal activity or interpretation of moral character if the person presents a valid certificate of employment restoration.

Authorizes the introduction of a certificate of employment restoration as evidence in a judicial or administrative proceeding alleging negligence in certain circumstances and establishes immunity for an employer who has a claim against him or her for negligent hiring if the employer knew of the certificate at the time of the alleged negligence. Requires the Administrative Office of the Courts (AOC) to create a standard petition for employment restoration form and maintain the form on the AOC's website.

Stagger the effective date for various provisions of the proposed legislation. Upon passage, the AOC is required to create a certificate of employability form and a petition for employability form, and boards, agencies, commissions, and other licensing entities are to promulgate new rules. Beginning, July 1, 2014, employers receive immunity from liability under the proposed legislation and one who possesses a certificate of employability may apply for positions that do not require a state license or certificate. Beginning January 1, 2015, affected individuals may begin filing petitions for employability and an individual who possesses a certificate of employability may begin applying for jobs that do require a state license or certificate.

Amendment 014140 makes two technical, non-substantive changes to Amendment 013701 regarding an incorrect reference to "employment" rather than "employability" and adding a new title of the code to which the proposed legislation will not apply.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- According to the AOC, the proposed legislation will not have a fiscal impact on the court system. It is estimated that any increase in the time necessary to hear citizenship restoration petitions will not be significant and can be accommodated within existing judicial resources.
- Any costs incurred by the AOC relating to the creation of an employment restoration petition form and to maintain the form on the website will not be significant.

- According to the Department of Commerce and Insurance, any increase in expenditures to review applications and registrations from individuals presenting valid certificates of employment registration to the Insurance Division, the Securities Division, or the Division of Fire Prevention will not be significant and can be accommodated within existing resources.
- Any increase in expenditures to the Division of Regulatory Boards or the Division of Health Related Boards to review additional licensure applications will not be significant and can be accommodated within existing board resources.
- Pursuant to Tenn. Code Ann. § 4-3-1011, all health related and regulatory boards are required to be self-supporting over a two-year period. The Division of Health Related Boards had a cumulative balance of \$929,407 for FY11-12 and \$1,226,220 for FY12-13. The Division of Regulatory Boards had a cumulative reserve balance of \$14,350,842 for FY11-12 and \$17,788,770 for FY12-13.
- According to the Department of Financial Institutions, any impact to the licensing and application procedures of the Department will not be significant.
- According to the Department of Human Services, there will not be a significant fiscal impact to the Department's review of applications to operate child or adult care facilities.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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